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April 5, 2005

Ms. Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

via electronic filing

Re: American Cable Association Petition for Rulemaking, RM-11203

Dear Ms. Dortch:

On behalf of Pioneer Communications, I write to express our support for American Cable Association's petition for rulemaking on retransmission consent. Pioneer operates as an independent telecommunications company that serves cable television customers in a rural area of Kansas, and I can verify the accuracy of the conditions and concerns as set out by the Association's petition with regards to the pending retransmission consent crisis.

Broadcasters, including those in the markets served by Pioneer, have demonstrated that they will likely again seek to force cable operators to charge additional subscription fees to basic cable customers to cover new demands of cash for carriage. We feel that ACA has outlined a solution to this problem that is pro-consumer, pro-competition, and deregulatory. The proposed amendments would be of great assistance to rural cable operators in negotiation of terms for broadcast retransmission consent. Ultimately, the proposal would enable small operators to keep down the costs of basic cable service for customers across the nation.

Pioneer Communications serves 9,000 cable television subscribers across rural western Kansas. After nearly fifty years as a cooperative providing local telephone service, Pioneer began providing cable television services in the region in 1998, investing in new 750mHz plant to provide our rural communities with improved service quality and more informational, educational and entertainment programming choices. Shortly thereafter, in 1999, Pioneer began to deliver a number of advanced cable services including digital cable and high-speed Internet access via cable modem. Today, Pioneer is pleased to be able to provide our rural customers with access to the latest in technology, including high-definition (HDTV) programming and digital video recorder (DVR) services.

Pioneer serves twenty-three small communities spread across more than 6000 square miles from a centralized headend facility located in Ulysses, Kansas. To give a better idea of the size of the communities we serve, our largest system, in Ulysses, has 2,300 customers, and our smallest system, the community of Big Bow, has only 8 customers. Without Pioneer's effort to build cable facilities to a number of these smaller rural towns, many of these customers would

not have access to cable television as a local, affordable, and competitive alternative to direct broadcast satellite (DBS).

As a small cable operator, Pioneer is regularly in direct contact with our customers, and we understand their interests in having the option to affordably exercise more choice in the expanding universe of video programming. Pioneer currently offers more than 60 channels of Basic tier programming, more than 50 channels of Premium programming, more than 20 channels of pay-per-view programming, and more than 100 channels of digital tier programming. As we have endeavored to expand the selection of channels available to our rural customers in recent years, we have seen considerable interest in and appreciation of the improved variety of programming.

Nevertheless, DBS competition has been very strong in the region. Under recent rules and legislation, a competitive imbalance has actually begun to develop with regards to broadcast network retransmission consent that places rural cable operators at a severe disadvantage. While DBS providers have been given authorization to offer out-of-market stations and distant digital stations to a number of “white area” communities and rural service areas in western Kansas, Pioneer, as a cable operator, has been denied that opportunity under numerous nonduplication restrictions imposed by local market broadcasters in retransmission consent agreements. Pioneer seeks to be given the same opportunity to negotiate retransmission consent from both the local designated market area broadcasters and those of neighboring markets.

If left in place without revision, these restrictions will continue to have an adverse affect on competition in the multichannel video marketplace. Rural customers that wish to obtain such out-of-market broadcast stations will be left with no competitive option, other than subscription to a direct broadcast satellite service. In the end, it simply is not reasonable that such unbalanced conditions should afford greater choice in broadcast programming carriage over direct broadcast satellite, and at the same time, limit such choice for local, rural cable operators and their customers.

Pioneer's cable service area exists in a very rural environment that has been traditionally underserved, or altogether unserved, by the “local” signals of western Kansas' broadcast stations. The area borders along the western boundary of the Kansas state line, with many communities adjacent to Colorado. In fact, five of Pioneer's cable service communities are resident in the Mountain Time zone.

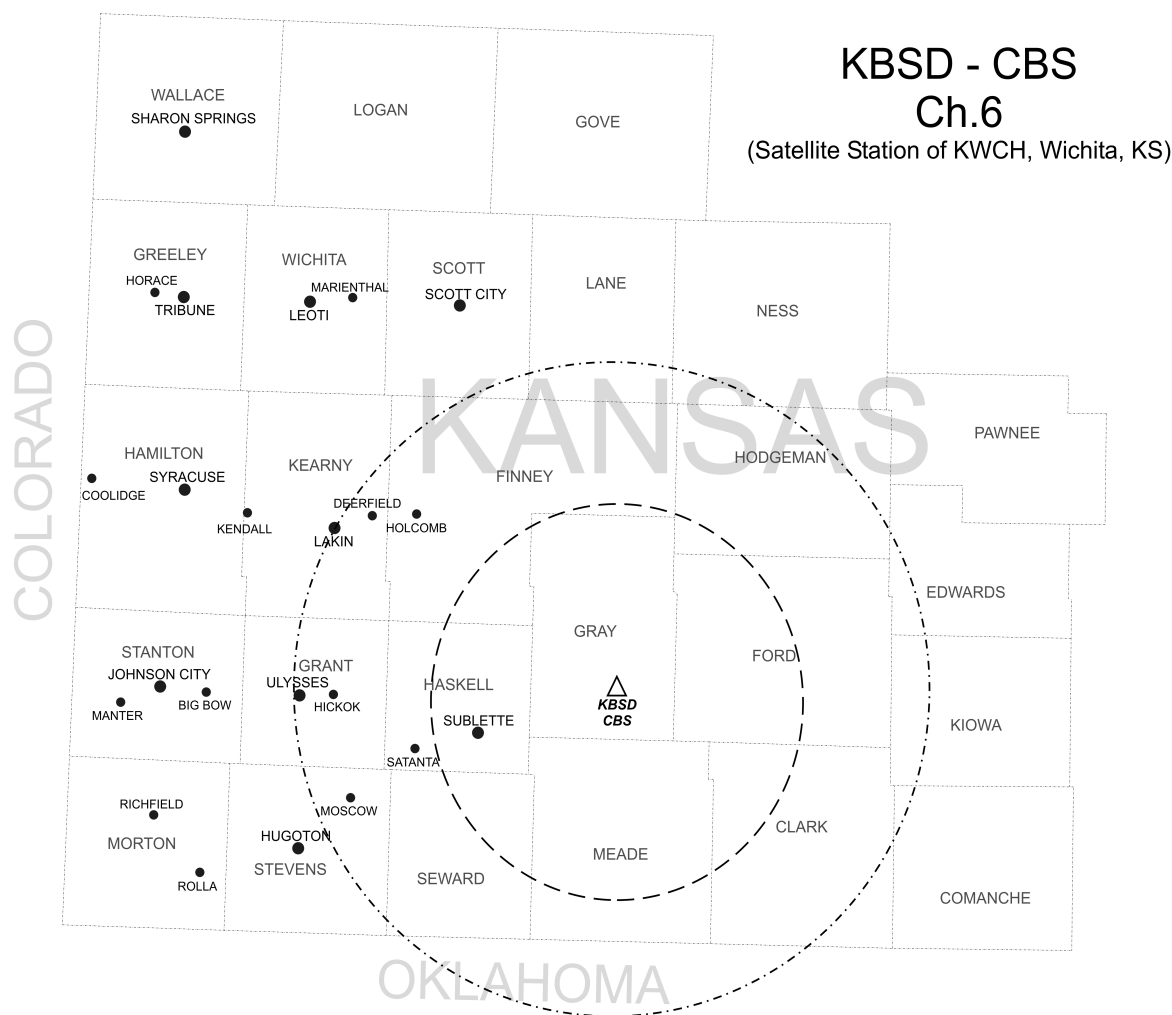
As a result, Pioneer's cable customers have repeatedly expressed a legitimate desire to also receive broadcast programming from the neighboring eastern Colorado market served by stations in Pueblo, Colorado Springs, and/or Denver. Together, broadcast signals from both markets would better serve the commercial, news, sports, weather and entertainment interests of our western Kansas customers who find themselves situated in the middle ground between both markets. However, these consumer interests have repeatedly fallen upon deaf ears as they have been consistently denied by “local” broadcasters in Kansas.

If allowed under the Commission's revised rulemaking, the carriage of the neighboring market stations that we seek on our customers' behalf would come in addition to, and not at the exclusion of, those of the “local” market. Under the direction of our customers' guidance, it is Pioneer's mission to provide video programming services that are affordable and meaningful to the residents of our communities, and accordingly, we ask the Commission to consider minor

revision of the rules of retransmission consent to aid citizens in these rural areas underserved by network affiliate broadcast services.

Many of the communities in Pioneer's cable service area find themselves geographically located in a so-called “white area”, where they are unable to receive some, or all, of the local analog or digital broadcast stations via standard over-the-air transmissions. For example, if a customer in Coolidge, Kansas, were to erect their own analog or digital antenna in an attempt to receive the signal of KSNG/NBC in Garden City, Kansas, KUPK/ABC in Garden City, Kansas, or KBSD/CBS in Dodge City, Kansas, they would not be able to receive the signal of any of those broadcasters with any fidelity. As it turns out, the only reliable access many rural customers in western Kansas have to the “local” area broadcast stations are via retransmission over Pioneer Communications' cable television system.

The lack of local broadcaster presence, commitment, and service to the area is illustrated in the figure below. In the case of the southwestern Kansas' CBS broadcast affiliate station, KBSD of Dodge City/Ensign, there are fifteen of the twenty-three communities served by Pioneer's cable service that are located completely beyond the Grade B contour of the station's signal.



While the “local” broadcasters lay blanket claims of entitlement to the entirety of the designated market area, they fail to blanket the region with a quality signal. This shortfall is directly attributable to the fact that the broadcaster has neglected to invest in transmission facilities to adequately serve the very areas to which they claim exclusivity. Rather confoundingly, while they continue to underserve the local market, many of these “local” broadcasters are now demanding money for retransmission of their signal in the area, when in fact, they would not even be able to reach many of the viewing households in the area if it were not for the retransmission of their signal provided over the regional hybrid fiber coaxial cable plant that was constructed solely at the cost and effort of the cable operator, Pioneer.

During the most recent round of broadcast retransmission consent negotiation for the 2003-2005 period, Pioneer witnessed an increasing number of unprecedented mandates from broadcasters for terms and conditions tied to signal retransmission consent that we found to be without substance and wholly unfair. We were alarmed as the majority of the area broadcast stations, in a marked and irregular departure from all historical practice in retransmission consent negotiation, demanded monetary compensation and other forms of consideration for retransmission of their “free” over-the-air networks.

Many broadcast networks have now begun to demand regular monthly licensing fees from small cable operators for access to broadcast signals. Additionally, Pioneer has noticed broadcasters demanding the value of reservation of considerable blocks of local cable advertising avails from the cable operator for cross-channel promotion of the broadcaster's service, or services, to be delivered at no charge, in exchange for retransmission consent of the broadcast network. One local broadcast network affiliate even went so far as to demand that our small cable system would have to agree to purchase a fixed and substantial amount of advertising on the broadcaster's station, in exchange for consent to retransmit their broadcast signal.

Broadcasters have also increasingly sought to use retransmission consent to leverage carriage of unwanted cable programming services amongst cable operators. With the recent wave of consolidation in the media industry, whereby many broadcast and cable networks share the same ownership, small operators have increasingly become the target of this “tying” tactic. Many media conglomerates have sought to tie retransmission consent of their over-the-air broadcast network station to forced carriage of other cable programming networks under their ownership.

Conditional requirements such as these are an obvious misuse of the retransmission consent rules. These types of broadcaster demands pose undue burdens upon small cable operators, and have not been demonstrated in any way to serve the interests of the consumer. In fact, if broadcast retransmission fees, potentially compounded by the licensing fees for “tied” cable programming, are demanded by the broadcaster, then the cable operator is left with no choice but to pass the increased programming costs on to the consumer. Again, these demands come from the broadcaster regardless of whether or not consumers in that market have an interest in the programming, or an appetite to pay for the additional expense.

While the broadcasters demand these new fees, they also demand a condition of confidentiality and non-disclosure within the same retransmission consent agreement, in an attempt to rigorously prevent the true source of the expense from being revealed to the customer. In the event that a cable operator is ultimately required to take on a fee-based broadcast signal, then we feel it is only fair, and in the best interest of the consumer, that a degree of transparency

permits the cable operator to represent and explain that broadcast retransmission consent cost to the consumer on their service bill. Effectively, this could take the form of an itemized listing to detail the novel expense for cablecast rights of a given broadcast network station. Otherwise, as a result of this lack of rate transparency, consumers are kept completely unaware of the true costs behind their cable subscription rates, and the principal cause behind nearly all cable rate increases.

As the General Accounting Office reported in October of 2003 in their study of *Issues Related to Competition and Subscriber Rates in the Cable Television Industry*, programming rates for cable networks rose as much as 34% on average in the period of 2001 to 2003, and cable networks featuring sporting events rose as much as 59% during the same period. Moreover, the GAO was able to confirm that these exorbitant increases in rates issued by programmers, were the key factor in putting upward pressure on cable operators' service subscription rates. As programmer conglomerates have grown in size, and ownership of broadcast and cable networks has become more concentrated, they have increasingly exerted their power over smaller operators, dictating otherwise unqualified rates for media and repeatedly raising those rates at levels far in excess of the rate of inflation.

With small and independent operators severely restricted from acting on behalf of the interest of their customers and unable to affect any change in the rate structuring set by today's behemoth programming entities, we seek the support of the Commission and Congress to assist operators in reigning in programming rates and monitoring programmer's abusive practices, while curbing the swell of ownership concentration in the media industry, which has all but eradicated the last elements of programming independence and localism in smaller markets.

The broadcasters' demands for several more of our cable customers' dollars per month presents a major problem. Our margins are already stretched thin, due primarily to the skyrocketing costs of programming, and also due in part to the expense of plant construction and maintenance in such a high-cost rural area. Undoubtedly, if we are required to raise our rates again to charge our customers for carriage of their "free" over-the-air broadcast channels, they will be angry. As a result, some will drop our service. Those that do not will possibly have to pay as much as 3-6% more for their basic cable service.

In the petition, ACA seeks the right for small cable operators to shop for alternatives when a broadcaster demands a fee for retransmission consent. In the markets served by Pioneer, we know this will work to lower the cost of retransmission consent for our customers. Moreover, this will allow us the opportunity to better serve our customers with supplementary broadcast programming from a neighboring market, such as that of eastern Colorado. As illustrated above, in our unique geographical situation, the broadcasters of the neighboring market are equally-suited to provide programming and information that is considered by many customers to be as important, and often more pertinent, to the lives of those who reside in the rural western reaches of our state.

If "local" broadcasters continue to force the issue, then Pioneer is confident that we could obtain network programming at a lower cost from other broadcasters. However, we can only achieve this if a modification of the rules grants us the ability to receive broadcast signals from neighboring markets. Furthermore, if the broadcasters in our market know that alternatives exist, we believe we will be much better able to negotiate a fair and lower price. This free-market

mechanism works in virtually every type of transaction, and we trust it will work in moderating unfair practices in retransmission consent.

As stated in the petition, the problem is not necessarily that broadcasters demand a “price” for retransmission consent. The key concern is that they block the rural cable operator's ability to find lower-cost alternatives. The petition shows how this problem will easily cost consumers and smaller cable operators upwards of \$860 million next year. In the markets served by Pioneer, broadcasters have asserted demands that could potentially cost our subscribers several more dollars per year, for what is traditionally a “free” over-the-air network that they should otherwise be able to receive via antenna. Obviously, due to the broadcasters' insufficient delivery of signal across much of the rural western Kansas market, sadly, many of the communities served by Pioneer would not even have access to a network broadcast station's signal, if it were not for retransmission over the facilities owned and maintained by the cable operator.

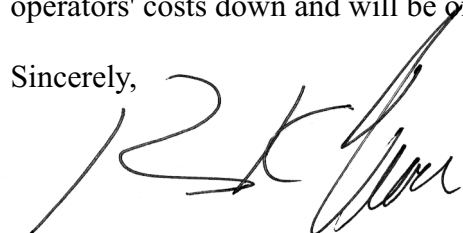
We understand the importance of local programming, but we also understand how much our customers are willing to pay for it. Furthermore, we understand that in a rural area such as ours, far removed from the “local” broadcaster, that often the programming presented by the broadcaster can be of diminished value to our viewers. The news and weather operations for these stations, which ideally should be the core value and contribution of a local broadcast affiliate, are typically originated from and focused on Wichita, some 250 miles away.

To add to the deficit of local interest and service, most often the owners of these broadcast stations are based in corporate headquarters thousands of miles away. Frankly, they seem to care very little about localism, and they fail to adequately serve the local market. In the end, the broadcasters are found to be doing little more than attempting to disguise their pursuit of money from our customers' pockets from under the veil of a retransmission consent agreement.

We do not object to a fair exchange of value for carriage of “local” signals, particularly when those signals carry a discernible value for our customers. But when broadcasters demand a “price,” we need the ability to “shop” to get a “price” that fairly reflects the value of the signal to the people of the rural communities that we serve.

In the interest of small cable operators and their customers, Pioneer asks that the Commission give consideration to ACA's petition. By enacting the limited changes proposed, Pioneer feels that the Commission will bring a necessary degree of market discipline to retransmission consent negotiation and “pricing”. Such revisions will aid in keeping small operators' costs down and will be of direct benefit to the consumers of rural America.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. K. Veach', written over a horizontal line.

Richard K. Veach
General Manager and Chief Executive Officer
Pioneer Communications